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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|-------------------------|-------------------------------|------------------|
| 10/721,162 | 11/26/2003 | Makoto Nishimura | 2003_1716A | 5536 |
| 513 7590 02/13/2007 WENDEROTH, LIND & PONACK, L.L.P. 2033 K STREET N. W. SUITE 800 WASHINGTON, DC 20006-1021 | | | EXAMINER KENNEDY, JOSHUA T | |
| | | | ART UNIT 3679 | PAPER NUMBER |
| SHORTENED STATUTORY PERIOD OF RESPONSE 3 MONTHS | | MAIL DATE 02/13/2007 | DELIVERY MODE PAPER | |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

| | | |
|------------------------------|-------------------------------|--|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/721,162 | NISHIMURA ET AL. |
| | Examiner Joshua T. Kennedy | Art Unit 3679  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 17 January 2007.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-6 and 12-16 is/are pending in the application.
- 4a) Of the above claim(s) 1, 3, 12-14 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 2,4-6,15 and 16 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election of Group I and Species B in the reply filed on 5/25/2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 1, 3, 12-14 have been withdrawn.

Claims 7-11 have been cancelled.

Claims 2, 4-6, 15, and 16 have been examined.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 5, 6, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tetsuo et al (JP Patent 09-060682) in view of Downey et al (US Patent 6,217,115).

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As to Claim 2. Tetsuo et al disclose a tube assembly comprising a first tubular body (2) and a second tubular body (1) disposed such that walls of said first and second tubular bodies overlap (Fig 1), a plurality of joint portions (P) being formed between said first and second tubular bodies by drawing in a drawing direction an overlapping part of the walls of said first and second tubular bodies at a plurality of positions (Fig 1), wherein said plurality of joint portions includes at least one first joint portion in which the wall of said first tubular body is laterally extended into the wall of said second tubular body (Examiner considers the dented joint portions to extend laterally into the wall; also, see note below) and at least one second joint portion in which the walls of said first tubular body and said second tubular body are in contact with each other in a cup-like surface configuration (Fig 1; Examiner considers the dent portion to form a cup-like surface),

the wall of said first tubular body including a forward surface located forward relative to the drawing direction, and the wall of said second tubular body including a rearward surface located rearward relative to the drawing direction (Fig 1),

a joint portion, the forward surface including a portion that is reduced diametrically relative to the drawing direction, the rearward surface including a portion that is reduced diametrically relative to the drawing direction, the diametrically reduced portion of the forward surface being in contact with the diametrically reduced portion of the rearward surface such that they are separable from each other in the drawing direction (Fig 1).

However, Tetsuo et al do not disclose an additional joint portion, wherein the forward surface including a portion that is enlarged diametrically relative to the drawing

direction, the rearward surface including a portion that is enlarged diametrically relative to the drawing direction, the diametrically enlarged portion of the forward surface being extruded into the diametrically enlarged portion of the rearward surface, thus ensuring high peeling resistance.

Downey et al teach a linkage assembly (Fig 7) having a joint portion wherein the forward surface including a portion that is enlarged diametrically (78) relative to the drawing direction, the rearward surface including a portion that is enlarged diametrically relative to the drawing direction (Fig 7), the diametrically enlarged portion of the forward surface being extruded into the diametrically enlarged portion of the rearward surface "to firmly lock the links together" (Col 4, Lines 31-38). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the joint portion of Tetsuo et al to have an additional joint portion as taught by Downey et al to firmly lock the two pieces together in a positive engagement.

It is the patentability of the product, and not recited process steps, that is to be determined in product-by-process claims irrespective of whether or not only process has been recited. Accordingly, it is of little consequence how the joint portions were formed when the joint portions are present. See MPEP § 2113.

Examiner also notes that the specific method of forming is not germane to the issue of patentability of the device itself. Therefore, the limitation "extruded" has been given only limited patentable weight. See MPEP § 2113.

As to Claims 5 and 6. Tetsuo et al disclose said first tubular body (2) forms a support member being selected from a spring seat and a knuckle bracket and said second tubular body (1) forms a tube for a piston-cylinder assembly (Abstract, Lines 6-8).

As to Claim 15. Tetsuo et al disclose an assembly, comprising:

a first body having a first layer (2) and

a second body having a second layer (1), the bodies being disposed such that the first and second layers overlap (Fig 1), a plurality of joint portions (P) being formed between said first and second bodies by drawing an overlapping part of the layers of said first and second bodies at a plurality of positions (Fig 1),

wherein said plurality of joint portions includes at least one first joint portion in which the first layer is laterally extended into the second layer (Examiner considers the dented joint portions to extend laterally into the wall; also, see note below) and at least one second joint portion in which the first layer and the second layer are contact with each other in a cup-like surface configuration (Fig 1; Examiner considers the dent portion to form a cup-like surface),

a joint portion, the forward surface including a portion that is reduced diametrically relative to the drawing direction, the rearward surface including a portion that is reduced diametrically relative to the drawing direction, the diametrically reduced portion of the forward surface being in contact with the diametrically reduced portion of the rearward surface such that they are separable from each other in the drawing direction (Fig 1).

However, Tetsuo et al do not disclose an additional joint portion, wherein the forward surface including a portion that is enlarged diametrically relative to the drawing direction, the rearward surface including a portion that is enlarged diametrically relative to the drawing direction, the diametrically enlarged portion of the forward surface being extruded into the diametrically enlarged portion of the rearward surface, thus ensuring high peeling resistance.

Downey et al teach a linkage assembly (Fig 7) having a joint portion wherein the forward surface including a portion that is enlarged diametrically (78) relative to the drawing direction, the rearward surface including a portion that is enlarged diametrically relative to the drawing direction (Fig 7), the diametrically enlarged portion of the forward surface being extruded into the diametrically enlarged portion of the rearward surface "to firmly lock the links together" (Col 4, Lines 31-38). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the joint portion of Tetsuo et al to have an additional joint portion as taught by Downey et al to firmly lock the two pieces together in a positive engagement.

It is the patentability of the product, and not recited process steps, that is to be determined in product-by-process claims irrespective of whether or not only process has been recited. Accordingly, it is of little consequence how the joint portions were formed when the joint portions are present. See MPEP § 2113.

Examiner also notes that the specific method of forming is not germane to the issue of patentability of the device itself. Therefore, the limitation "extruded" has been given only limited patentable weight. See MPEP § 2113.

Claims 2, 4 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tetsuo et al in view of Stevenson et al (US Patent 6,814,531).

As to Claims 2, 4 and 16. Tetsuo et al disclose a tube assembly comprising a first tubular body (2) and a second tubular body (1) disposed such that walls of said first and second tubular bodies overlap (Fig 1), a plurality of joint portions (P) being formed between said first and second tubular bodies by drawing in a drawing direction an overlapping part of the walls of said first and second tubular bodies at a plurality of positions (Fig 1), wherein said plurality of joint portions includes at least one first joint portion in which the wall of said first tubular body is laterally extended into the wall of said second tubular body (Examiner considers the dented joint portions to extend laterally into the wall; also, see note below) and at least one second joint portion in which the walls of said first tubular body and said second tubular body are in contact with each other in a cup-like surface configuration (Fig 1; Examiner considers the dent portion to form a cup-like surface).

the wall of said first tubular body including a forward surface located forward relative to the drawing direction, and the wall of said second tubular body including a rearward surface located rearward relative to the drawing direction (Fig 1),

a joint portion, the forward surface including a portion that is reduced diametrically relative to the drawing direction, the rearward surface including a portion that is reduced diametrically relative to the drawing direction, the diametrically reduced portion of the forward surface being in contact with the diametrically reduced portion of

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the rearward surface such that they are separable from each other in the drawing direction (Fig 1).

However, Tetsuo et al do not disclose an additional joint portion comprising a rivet that is laterally extruded into the wall of the second tubular body, wherein the forward surface including a portion that is enlarged diametrically relative to the drawing direction, the rearward surface including a portion that is enlarged diametrically relative to the drawing direction, the diametrically enlarged portion of the forward surface being extruded into the diametrically enlarged portion of the rearward surface, thus ensuring high peeling resistance.

Stevenson et al teach an assembly (Fig 8) having a joint portion comprising a rivet (100) that is laterally extruded into the wall of the second tubular body, to prevent relative rotation of the two secured bodies joined together (Col 1, Lines 52-59). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the joint portion of Stevenson et al to have an additional joint portion as taught by Downey et al to prevent relative rotation of the two secured bodies joined together.

Examiner again notes that it is the patentability of the product, and not recited process steps, that is to be determined in product-by-process claims irrespective of whether or not only process has been recited. Accordingly, it is of little consequence how the joint portions were formed when the joint portions are present. See MPEP § 2113. Examiner also notes that the specific method of forming is not germane to the issue of patentability of the device itself. Therefore, the limitations "extruded" and "formed by a rivet" has been given only limited patentable weight. See MPEP § 2113.

Response to Arguments

Applicant's arguments with respect to claims 2, 4-6, 15, and 16 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment, specifically the addition of the limitations drawn to the diametrically enlarged portions of first joint portion in Claims 2 and 15, necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patents 6881004 to Handke, 5498096 to Johnson, 5072655 to Adler, 4632592 to Gunter, 3976385 to Klopfer, 6217115 to Downey et al, 4836705 to La Barge

et al, 4998337 to Tiekink, 5230136 to Cronn et al, 3973824 to Chor, and US Patent Application 2002/0136593 to Fisher.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua T. Kennedy whose telephone number is (571) 272-8297. The examiner can normally be reached on M-F: 7am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JTK

2/5/2007



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